

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

LG. PHILIPS LCD CO., LTD.,	)
	)
Plaintiff,	)
	)
v.	) C.A. No. 05-292 (JJF)
	)
TATUNG COMPANY;	)
TATUNG COMPANY OF AMERICA, INC.;	) REDACTED - PUBLIC VERSION
CHUNGHWA PICTURE TUBES, LTD.;	)
AND VIEWSONIC CORPORATION,	)
	)
Defendants.	)

**DEFENDANTS' MOTION IN LIMINE (NO. 8) TO PRECLUDE  
LPL FROM ARGUING THAT IT IS ENTITLED TO DAMAGES  
FOR SALES OUTSIDE OF THE UNITED STATES**

LPL should be precluded from arguing it is entitled to damages based upon products made, used and/or sold by CPT outside of the United States. LPL should only be allowed to argue that it is entitled to damages based on infringing sales in the United States. Any argument to the contrary defies the basic rule that acts taking place outside the United States are not acts of infringement under U.S. patent law. *See Deepsouth Packing Co. v. Laitram Corp.*, 406 U.S. 518, 527 (1972) (“The statute [35 U.S.C. § 271] makes it clear that it is not an infringement to make or use a patented product outside of the United States. Our patent system makes no claim to extraterritorial effect.”); *Standard Havens Prods. v. Gencor Indus.*, 953 F.2d 1360 (Fed. Cir. 1992) (striking damages award based on acts that took place outside the United States).

*Enpat, Inc. v. Microsoft Corp.*, 6 F. Supp. 2d 537, 539-40 (E.D. Va. 1998), is particularly instructive on this issue:

[W]e find that [the defendant] cannot be required to pay damages for foreign sales which do not violate United

States patent laws. Moreover, while we recognize that the determination of a reasonable royalty envisions a hypothetical license negotiation between the infringer and the patent owner, using the factors delineated in *Georgia-Pacific Corp. v. United States Plywood Corp.*, 318 F.Supp. 1116, 1119-20 (S.D.N.Y. 1970), none of those factors support a conclusion that [the defendant] would pay for the right to engage in foreign sales it already has a legal right to make. Accordingly, we conclude that [the defendant's] foreign sales may not be taken into account in any determination of a reasonable royalty.

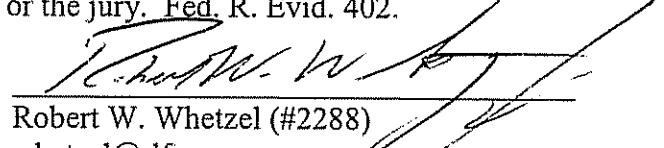
LPL's experts, Cobb and Associates, commit a fundamental error in their report, assuming that the royalty base is all sales worldwide, and not just U.S. sales. (See Cobb Report at 23). Consequently, LPL should be precluded from making any reference to damages for sales outside of the United States because this issue is wholly unrelated to any issue that is properly before the Court or the jury. Fed. R. Evid. 402.

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 America, Chunghwa Picture Tubes, Ltd, and  
 Viewsonic Corporation

Dated: July 5, 2006

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FOR THE DISTRICT OF DELAWARE**

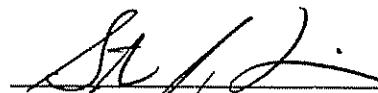
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 5, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to, and also hand delivered same to:

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I HEREBY CERTIFY that on July 5, 2006, I sent the foregoing document by Electronic Mail to the following non-registered participants:

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

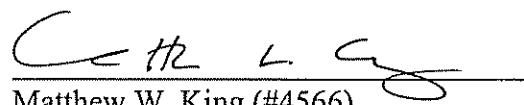
**CERTIFICATE OF SERVICE**

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